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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,627	09/04/2007	Thomas Thoroe Scherb	VOI0286.US2	2544
41863	7590	10/18/2010	EXAMINER	
TAYLOR IP, P.C. P.O. Box 560 142. S Main Street Avilla, IN 46710			HUG, ERIC J	
			ART UNIT	PAPER NUMBER
			1741	
			MAIL DATE	DELIVERY MODE
			10/18/2010	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/587,627	<b>Applicant(s)</b> SCHERB ET AL.	
	<b>Examiner</b> Eric Hug	<b>Art Unit</b> 1741	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 154-337 is/are pending in the application.
- 4a) Of the above claim(s) 249-312 and 329-337 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 154-174, 187-190 and 313-328 is/are rejected.
- 7) ☒ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

The following is in response to the amendment of August 20, 2010.

Claims 154-337 are pending. Claims 154-248 and 313-328 are under consideration, and claims 249-312 and 329-337 are withdrawn from consideration.

### ***Terminal Disclaimer***

The terminal disclaimers filed on August 8, 2010 have been considered.

The terminal disclaimer disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 7,294,237 has been reviewed and is accepted.

The terminal disclaimer disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 7,510,631 has been reviewed and is accepted.

The terminal disclaimer disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 7,527,709 has been reviewed and is accepted.

The terminal disclaimer disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of any patent granted on U.S. Patent Application Serial No. 10/587,869 has been reviewed and is accepted.

These terminal disclaimers have been recorded.

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The terminal disclaimer disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of any patent granted on U.S. Patent Application Serial No. has been reviewed and is NOT accepted.

The application which forms the basis for the double patenting rejection is not properly identified in the terminal disclaimer. Although Application No. 10/863,938 is initially identified in the first paragraph of the terminal disclaimer, U.S. patent No. 7,510,631 is incorrectly identified in the second paragraph of the terminal disclaimer in the portions where Application No. 10/863,938 should be identified.

### ***Response to Arguments***

Applicant's arguments of August 20, 2010 have been considered.

The declarations under 37 C.F.R. 1.132 by co-inventors Silva and Scherb disqualify Scherb et al (US 2005/0167061) as prior art under 35 U.S.C. 102(e). The rejection of claims 154-243, 245-248, and 313-328 under 35 U.S.C. 102(e) over Scherb is withdrawn.

In view of the terminal disclaimers, the double patenting rejections over U.S. 7,294,237, U.S. 7,510,631, U.S. 7,527,709, and U.S. Application No. 10/587,869 are withdrawn.

The double patenting rejection over later filed U.S. Application No. 12/107,505 is withdrawn, as those claims have been amended, therein avoiding a double patenting rejection.

The double patenting rejection over U.S. 11/863,938 is maintained until a proper terminal disclaimer is filed.

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***Double Patenting***

Claims 154-174, 187-190, and 313-328 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-22 and 45-49 of copending Application No. 11/863938. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Claims 154-174 are anticipated by claims 1-20 of 11/863938. All claimed features are recited in claims 1-20 of 11/863938. The only difference is that claim 1 of 11/863938 further recites that a web travels between the permeable belt and the exterior surface of the roll.

Claims 187 and 188 are anticipated by claim 21 of 11/863938. All claimed features are recited in claim 21 of 11/863938. The only difference is that claim 21 of 11/863938 further recites that a web travels between the ENP belt and the roll.

Claims 189 and 190 are anticipated by claim 22 of 11/863938. All claimed features are recited in claim 22 of 11/863938.

Claims 313-328 are anticipated by claims 45-59 of 11/863938. All claimed features are recited in claims 45-59, respectively, in 11/863938. The only difference is that claim 45 of 11/863938 further recites that a web travels between the permeable belt and the exterior surface of the roll.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Hug whose telephone number is (571) 272-1192.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Daniels can be reached on 571 272-2450. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eric Hug/  
Primary Examiner, Art Unit 1741